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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,133	10/15/2001	Anthony J. Baerlocher	0112300-466	6227
29159	7590	06/16/2004	EXAMINER	
BELL, BOYD & LLOYD LLC P. O. BOX 1135 CHICAGO, IL 60690-1135			MENDOZA, ROBERT J	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/981,133

Applicant(s)

BAERLOCHER ET AL.

Examiner

Robert J Mendoza

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Graham et al (USPN 6,491,584).

Graham, in col. 1:29-45 and col. 2:55-59, discloses a gaming device comprising a processor, a display device controlled by the processor, a primary game controlled by the processor, a secondary game controlled by the processor, a secondary game triggering event in the primary game which triggers the secondary game, and at least one re-trigger of the entire secondary game, at least one additional spin in the secondary game or at least one additional turn in the secondary game provided to the player in the secondary game upon the display of one of the secondary game triggering symbols. Graham, in col. 1:66-67, col. 2:1-4 and col. 3:5-22, discloses the secondary game triggering event in the secondary game and the secondary game triggering event in the primary game employ a plurality of the same triggering symbols, wherein the secondary game triggering event includes at least one combination of a plurality of triggering symbols and the secondary game re-triggering event includes at least one of the triggering symbols and less than the plurality of triggering symbols of the combination. Graham, in col. 1:35-45, discloses the bonus trigger is selected from the group consisting of at least one

Art Unit: 3713

additional turn in the bonus game. Graham, in col. 1:54-67, col. 2:1-4 and col. 3:3-44, discloses the bonus re-triggering symbol activates a bonus re-triggering symbol in the bonus game, the processor provides an additional bonus re-trigger to the player. Graham, in col. 1:66-67, col. 2:1-4 and col. 3:45-57, discloses the secondary re-triggering event in the secondary game is more likely to occur in the secondary game than in the primary game, the secondary game re-triggering event in the secondary game and the secondary game triggering event in the primary game employ at least one of the same triggering symbols.

### **Response to Arguments**

Applicant's arguments filed 03/26/2004 have been fully considered but they are not persuasive. The Applicant argues that Graham does not disclose increasing the frequency of the trigger condition in one or more of the free secondary games. The Examiner respectfully disagrees. Graham, in col. 1:66-67 and col. 2:1-4, that the bonus feature includes at least one of changes in scatters, substitutes, *bonus symbols* and *feature triggers*. Graham continues by disclosing, in col. 3:45-57, that the number of times the trigger condition occurs where the bonus feature increases may take place a finite number of times. Furthermore, Graham discloses an *increasing* bonus feature is applicable in respect of the first four trigger conditions whereafter it is no longer increased. The above Graham disclosure teaches increasing the number of scatters, substitutes, *bonus symbols* and *feature triggers* a finite number of times in a re-triggered series of secondary games. Clearly, if Graham increases the number bonus symbols or feature triggers in subsequent bonus games, it increases the probability of obtaining a winning outcome (i.e. re-triggering event) in at least one or more of the series of free secondary games. Although Graham discloses that the trigger frequency *may* decrease for at least some of the series of free secondary

Art Unit: 3713

games, there is a period in the series of free secondary games where there is an increase in the frequency of the trigger condition in one or more of the free secondary games.

The Applicant argues that Graham does not disclose re-triggering the entire secondary game when the trigger condition occurs. The Examiner respectfully disagrees. Graham, in col. 3:15-21, discloses if during any one of the free games of the initial series of free games, the same trigger condition arises, a subsequent series of free games is awarded. The above Graham disclosure teaches that if a triggering event occurs during the initial series of free games (secondary games), the player re-triggers another series of free games (secondary games). Therefore, Graham does disclose re-triggering the entire secondary game when the trigger condition occurs.

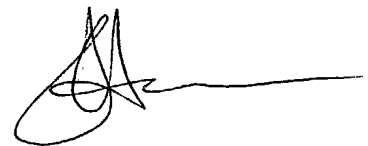
#### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Mendoza whose telephone number is (703) 305-7345. The examiner can normally be reached on Monday-Friday from 8:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the primary examiner, John Hotaling, can be reached at (703) 305-0780. The USPTO official fax number is (703) 872-9306.

RM

RM  
June 9, 2004



JESSICA HARRISON  
PRIMARY EXAMINER